

THE BEST AND WORST OF STATE TAX ADMINISTRATION

COST SCORECARD ON TAX APPEALS & PROCEDURAL REQUIREMENTS

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EXECUTIVE SUMMARY

The Council On State Taxation (COST) has long monitored and commented on state tax appeals processes and administrative practices. Part of that effort has resulted in the regular publication of a scorecard ranking the states. The focus is on the states' adoption of procedural practices which impact the fairness of the states' laws and regulations for state tax administration and appeal of state tax matters. Why are these issues so important? Although compliance with state tax statutes and regulations is subject to audit scrutiny, the percentage of taxpayers actually audited is small. As a result, our federal and state tax systems are premised, to a great degree, on voluntary compliance. It is a common truth

that taxpayers will more fully and willingly comply with a tax system they perceive to be balanced, fair, and effective. Taxpayers operating in a system they perceive as oppressive, unfair, or otherwise biased are less likely to voluntarily comply. The clear message to state legislatures is that they must be sensitive to the compliance implications and competitiveness concerns created by poor tax administrative rules and ineffective tax appeal systems.

The COST Scorecard on Tax Appeals & Procedural Requirements seeks to objectively evaluate state statutes and rules that govern the degree of taxpayer access to an independent appeals process and state treatment of selected procedural elements that impact taxpayers' perceptions of fairness and efficiency. For these purposes, the essential elements of an effective and independent state tax appeals process are as follows:

- The appeals forum must be truly independent;
- Taxpayers must not be forced to pay or post a bond prior to an independent hearing and resolution of a dispute;
- The record for further appeals must be established before an independent body; and
- The arbiter at the hearing must be well-versed in the intricacies of state tax laws and concepts.

The procedural elements evaluated in this Scorecard consider whether the state has adopted:

- Even-handed statutes of limitations for refunds and assessments;
- Equalized interest rates on refunds and assessments;
- Due dates for corporate income tax returns at least 30 days beyond the federal due date, with an automatic extension of the state return due date based on the federal extension;
- Adequate time to file a protest before an independent dispute forum;
- Reasonable and clearly defined procedures for filing amended state income/franchise tax returns following

an adjustment to a taxpayer's federal corporate tax liability; and

- Transparency in the form of published letter rulings (redacted) and administrative/tax tribunal decisions (both new for this Scorecard).

Further, the Scorecard identifies certain ineffective, burdensome or inequitable practices not otherwise reflected in the Scorecard categories.

2013 Top-Ranked States

Maine	A
Ohio	A
Alaska	A-
Arizona	A-
Kansas	A-
Montana	A-
Pennsylvania	A-

2013 Bottom-Ranked States

California	D-
Louisiana	D-
Alabama	D
Colorado	D
Arkansas	C-
Nevada	C-

Awards & Demerits

While many states adopted notable improvements since the 2010 Scorecard (for example, Kansas, Maine, Ohio, and North Carolina posted solid gains), certain states deserve special recognition for adopting multiple changes in accordance with COST's recommendations for fair and efficient tax administration. Unfortunately, a few states missed opportunities to make bold reforms or, worse, exacerbated already unfair and punitive practices. Below are COST's awards and demerits, respectively, for some of these "notable" states.

Most Improved

- **Pennsylvania** leapt from a D and a "bottom states" ranking to an A- and a "top states" ranking, mainly through legislation adopted in 2012 (H.B. 761) and 2013 (H.B. 465). In particular, Pennsylvania's ranking was helped by adopting reforms to provide independence in tax appeals heard by the Board of Finance and Revenue. Like other states embracing independent tax appeals tribunals, Pennsylvania received a boost in the Scorecard's

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new "transparency" category due to the statutory requirement that the Board issue written decisions.

Honorable Mention

- **Georgia** rose from a C- to a B, largely based on its adoption and implementation of the Georgia Tax Tribunal, which issued its first published opinion on October 1, 2013. Georgia also shed a point by not requiring prepayment or bond to appeal to the Tribunal.
- **Illinois** improved from a D to a B-, in large part due to the laudable adoption of the Illinois Independent Tax Tribunal. Enacting independent tax tribunal legislation in Illinois was a multiyear effort that ultimately was successful due to strong, bipartisan champions in the Illinois General Assembly, the tireless efforts of the Taxpayers' Federation of Illinois and the Illinois Chamber of Commerce, and assistance from a dedicated group of Illinois SALT professionals. Unfortunately, however, implementation of the tribunal has not met expectations (see Demerits, below).
- **New Mexico** rose from a D to a B by adopting several reforms, including, importantly, extending the time period to protest an assessment from 30 to 90 days. New Mexico also adopted several of COST's recommendations regarding the State's requirements to report federal tax changes and the ability to claim a refund resulting from such changes.
- **Oklahoma** improved from a C- to a B+, based primarily on providing a *de novo* review of appeals at the district court and, critically, removing prepayment requirements for appeals.

Demerits

- **Alabama** lamentably failed to establish an Alabama Tax Appeals Commission ("ATAC") again this year, missing multiple opportunities to improve its tax administration and business climate. The legislation, containing the ABA Model Act for

①



SENATE

Tax

Exhibit No.

2

Amendments to Senate Bill No. 269
1st Reading Copy

Date

2-19-2015

Bill No.

SB 269

Requested by Senator Duane Ankney

For the Senate Taxation Committee

Prepared by Jaret Coles
February 10, 2015 (2:37pm)

1. Page 1, line 5 through line 6.

Strike: "ESTABLISHING" on line 5 through "AUDITS;" on line 6

2. Title, page 1, line 8.

Strike: "PROVIDING RULEMAKING AUTHORITY;"

Strike: "15-1-216, 15-30-2512,"

3. Page 1, line 13 through page 6, line 14.

Strike: section 1 through section 3 in their entirety

Renumber: subsequent sections

4. Page 6, line 18.

Strike: "Subject to [section 1] if"

Insert: "If"

5. Page 6, line 23.

Strike: "[section 1] and"

Strike: "of this section"

6. Page 9, line 4 through line 6.

Strike: section 8 in its entirety

Renumber: subsequent sections

- END -

Explanation - This amendment eliminates the new language in the bill that restricts multi-year audits of individual income tax returns. The amendment retains the provisions of the bill that reduce the statute of limitations from 5 to 3 years.

Amendments to Senate Bill No. 147
1st Reading Copy

SENATE Tax
Exhibit No. 3
Date 2/19/2015
Bill No. SB147

Requested by Senator David Howard

For the Senate Taxation Committee

Prepared by Jaret Coles
February 3, 2015 (2:22pm)

1. Title, page 1, line 6.

Following: "CREDIT IS REFUNDABLE;"

Insert: "AMENDING SECTION 19-17-110, MCA;"

2. Page 1, line 17.

Strike: "\$500"

Insert: "\$300"

3. Page 1, line 18.

Following: "or"

Strike: "a"

4. Page 2, line 7.

Following: line 6

Insert: "Section 2. Section 19-17-110, MCA, is amended to read:

"19-17-110. Allowable payments to volunteer firefighters.

(1) Allowable payments to volunteer firefighters include:

(a) payments of money reimbursed for documented expenses;
and

(b) an allowance, including a stipend or per diem, that may not exceed \$300 in a calendar year; and

(c) money received from the tax credit provided in [section 11].

(2) Compensation, as defined in 19-17-102, is not an allowable payment.

(3) Records of all payments and allowances, except for the tax credit provided in [section 11], must be maintained pursuant to 19-17-111."

{Internal References to 19-17-110:

19-17-102 x 19-17-111 x}"

Renumber: subsequent sections

- END -